

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO VEGA, JR.,

Plaintiff,

v.

M. SOTO, et al.,

Defendants.

Case No. 1:22-cv-00471-JLT-EPG (PC)

ORDER DENYING, WITHOUT PREJUDICE,  
MOTION TO COMPEL AND MOTION FOR  
SUBPOENA

(ECF Nos. 49, 50)

Plaintiff Francisco Vega, Jr., is a state prisoner proceeding *pro se* in this civil rights action. This case proceeds on Plaintiff's First Amendment retaliation claims against Defendants Soto, Borba, and Noujaime. (ECF No. 15).

Now before the Court are two motions filed by Plaintiff: (1) a motion to compel Defendants' response to Plaintiff's first set of interrogatories; and (2) Plaintiff's motion to the Clerk of Court to provide him two copies of subpoenas duces tecum. (ECF No. 49, 50). Upon review, the Court will deny each motion without prejudice based on the lack of supporting grounds to grant relief, but allow Plaintiff to refile the motions if he chooses to do so.

Plaintiff's motion to compel states that Defendants have "failed to adequately respond to Plaintiffs interrogatories per law" and that he submitted his interrogatories to Defendants on May 25, 2023. (ECF No. 49, p. 1). However, the only argument consists of about a half page, which states that Defendants provided an "incomplete response," generally cites Federal Rules of Civil Procedure 33 and 37, and seeks an order compelling Defendants to answer. (*Id.* at 3). Attached to

1 the motion is Plaintiff's first set of interrogatories for each of the three Defendants, but not  
2 Defendants' responses to the interrogatories.

3 Plaintiff's motion does not include sufficient information to rule on the motion to compel.  
4 Federal Rule of Civil Procedure 7(b) requires a motion to "state with particularity the grounds for  
5 seeking the order." Here, it is unclear whether a particular Defendant, or all Defendants, has or  
6 have completely failed to respond to his interrogatories, or whether they have failed to respond to  
7 only some interrogatories, or whether they have failed to fully answer some or all interrogatories.  
8 Moreover, as required by the scheduling order, Plaintiff should have included with his motion any  
9 responses from Defendants to his interrogatories, assuming they filed any responses. (ECF No.  
10 42, p. 5). Plaintiff also has not explained about why Defendants' responses are insufficient.

11 Turning to Plaintiff's motion for two subpoenas duces tecum "to request witness  
12 statement," as explained in the Court's scheduling order: "Plaintiff must: (1) identify the  
13 documents sought and from whom; (2) explain why the documents are relevant to the claims in  
14 this case; and (3) make a showing in the request that the records are only obtainable through a  
15 third party." (ECF No. 42, p. 4). Additionally, the Court notes that Plaintiff is not proceeding *in*  
16 *forma pauperis* in this case. Accordingly, he will be required to serve and bear the costs of service  
17 for any subpoenas that are issued. *See Fed. R. Civ. P. 45(b)(1)* ("Any person who is at least 18  
18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to  
19 the named person and, if the subpoena requires that person's attendance, tendering the fees for 1  
day's attendance and the mileage allowed by law."). And if Plaintiff desires to utilize the United  
20 States Marshals Service to serve any subpoenas, he is directed to 28 C.F.R. § 0.114, which sets  
21 out the fees for such services, including "\$65 per person per hour for each item served, plus travel  
22 costs and any other out-of-pocket expenses."

23 The Court will thus deny Plaintiff's motions at this time. Plaintiff may file new motions  
24 including the information set forth above if he wishes to do so.

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Accordingly, IT IS ORDERED that Plaintiff's motion to compel (ECF No. 49) and motion for subpoenas (ECF No. 50) are denied without prejudice.

IT IS SO ORDERED.

Dated: July 26, 2023

/s/ Eric P. Groj  
UNITED STATES MAGISTRATE JUDGE